

1 TRANSCRIBED FROM DIGITAL RECORDING

2 IN THE UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF ILLINOIS  
4 EASTERN DIVISION

4 UNITED CENTRAL BANK, ) Docket No. 10 C 331  
5 )  
6 Plaintiff, )  
7 )  
8 v. ) Chicago, Illinois  
9 ) February 11, 2010  
10 KANAN FASHIONS, INC., et al., ) 9:05 o'clock a.m.  
11 )  
12 Defendants. )

9 TRANSCRIPT OF PROCEEDINGS - STATUS  
10 BEFORE THE HONORABLE MICHAEL T. MASON

11 APPEARANCES:

12 For the Plaintiff: MS. VILIA MARGARET DEDINAS  
13 407 S. Hill Avenue  
14 Elmhurst, Illinois 60126

15 For the Defendants: BAILEY, BORLACK AND NADELHOFFER  
16 BY: MR. ALAN R. BORLACK  
17 135 South LaSalle Street  
18 Suite 3950  
19 Chicago, Illinois 60603

19 ALEXANDRA ROTH, CSR, RPR  
20 Official Court Reporter  
21 219 South Dearborn Street  
22 Room 1224  
23 Chicago, Illinois 60604  
24 (312) 408-5038

25 NOTE: Please notify of correct speaker identification.

1 (Proceedings had in open court:)

2 THE CLERK: 10 C 331, United Central Bank versus Kanan  
3 Fashions.

4 MS. DEDINAS: Good morning, your Honor. Vilia Dedinas  
5 on behalf of United Central Bank.

6 THE COURT: Good morning.

7 MR. BORLACK: Alan Borlack on behalf of the  
8 defendants, your Honor.

9 THE COURT: Good morning.

10 Anything else you want to tell me other than what you  
11 got in your joint strategy report?

12 MR. BORLACK: Well, Judge, I would like a couple  
13 minutes if I can to explain some of the problems I'm having.  
14 The -- the TRO was denied. And the issue is the expedited  
15 discovery with respect to the collateral, which it makes sense.

16 My problem is, my clients' business has pretty much  
17 collapsed. The -- the big business, which was a \$45 million  
18 business, the fashion business, is defunct. We have inventory  
19 in a warehouse that they're welcome to come and inspect. I've  
20 already sent an e-mail saying -- three days ago saying, come  
21 see it if you -- if you like.

22 My problem is, there is only two employees left.  
23 There is the owner and his right-hand man. The cruise company  
24 is the only business which still is not completely defunct.  
25 They give -- they have a cruise. That, of course, the winter

1 months is -- will kill it for now. And I understand there is  
2 one or two employees, I think a salesperson and a ship captain.

3 But the problem I'm having is, my guys are not really  
4 good with the computer. There is only two guys. They're  
5 trying to get their ex-employee, who is their computer man, to  
6 get back with them so that we can start trying to get some of  
7 the e-mails that we have to produce. But my problem is is that  
8 I only have two people, Judge, one -- really only one person,  
9 to do this discovery.

10 Now, the issue is the disposition of the collateral.  
11 I understand and -- that counsel may want a preliminary  
12 injunction to prevent the disposition of the collateral. I'm  
13 assured that it's not being sold. Nothing untowards is  
14 happening. And the Judge did deny the TRO. But that's my  
15 problem.

16 THE COURT: That he denied the TRO?

17 MR. BORLACK: Yes, he did.

18 THE COURT: No, is that your problem?

19 MR. BORLACK: No, no, no, no, no. I -- my problem is  
20 is that, in other words, the Judge -- I say that as context.  
21 But the big problem is -- whether he did or not is, I have  
22 logistics problem. It's -- it's said in all good faith about  
23 this expedited discovery, how much we can do so rapidly as  
24 counsel would like.

25 May I just say one more thing, Judge?

1 THE COURT: Sure you can.

2 MR. BORLACK: We have -- we have outstanding expedited  
3 interrogatories and requests for documents and depositions. I  
4 intend to have my objections on file tomorrow. I know counsel  
5 is in a rush. I can understand that.

6 I would suggest we have our two -- our rule conference  
7 on Monday. And perhaps if there are remaining issues that a  
8 motion to compel will need, perhaps you can give us a date next  
9 week so that we can move this, as I know counsel wants it, to  
10 get these objections satisfied and the issues resolved for the  
11 expedited discovery.

12 MS. DEDINAS: Your Honor, we believe that this  
13 inventory is being liquidated. The reason the TRO was  
14 denied --

15 THE COURT: Has anybody gone to check it out?

16 MS. DEDINAS: Yes. In fact, the reason we brought the  
17 TRO was because there -- in their own warehouse there was a  
18 for-cash sale going on. And that was obviously very alarming  
19 to us.

20 At the TRO hearing itself, they brought to us a letter  
21 from a church that we've had enormously difficult ability to  
22 contact -- there is nobody there -- that says that those items  
23 were donated and they were holding a cash sale.

24 However, we have other information that we believe  
25 there is -- they indicated in their opposition to the TRO that

1 they had moved the inventory to other warehouses, which they  
2 admitted they're not supposed to do that under the security  
3 agreement. Now they say it's back in the warehouse.

4 We haven't had an opportunity to inspect. We made the  
5 demands under the security agreement. And we have reason to  
6 believe that the collateral is being liquidated, and offers are  
7 being made to sell it.

8 And we can't prove that and get any further or renew a  
9 TRO unless we get some of the evidence.

10 THE COURT: When can you get in there to see this  
11 inventory? I'm talking to her.

12 MS. DEDINAS: I can get people in -- I have -- they  
13 have made the offer to do that, and I'm trying to get the  
14 personnel. Obviously Monday is a bank holiday. So we're  
15 trying to work on when we can have the personnel available to  
16 do that. But we're looking for -- it appears that they don't  
17 even have a inventory list of their own items. So their  
18 suggestion to us was that we make a list and provide it to  
19 them.

20 So if we're going to go in and audit 200,000 pieces of  
21 jeans and other items --

22 THE COURT: It's clothing, is that (inaudible) --

23 MS. DEDINAS: It's clothing. Yes, it's going to  
24 take -- it's going to take a time where we have to get auditors  
25 in to do that.

1           Now, as far as their claims that they just don't have  
2 personnel, I have two responses to that. Again, I don't have  
3 the documents to prove this. It's our information that they  
4 started operations under a new business, and perhaps that  
5 that's where all the personnel have gone.

6           And second of all, this really should be something  
7 that they should be taking into consideration when they tell us  
8 that they're going to file a multi-million-dollar counter-claim  
9 against us in a matter of two weeks. How are they going to  
10 proceed with that and the discovery of that if they can't  
11 answer some simple interrogatories and document requests  
12 relating to our secured inventory?

13           MR. BORLACK: Judge, first of all, you have to  
14 understand that the issue here is a very serious counter-claim.  
15 They froze the (inaudible) --

16           THE COURT: You can't have it both ways here.

17           MR. BORLACK: No, we're going to -- I'm not disputing  
18 discovery. It's the expedited nature, how quickly we can do  
19 it.

20           THE COURT: I'm going to adopt the joint status report  
21 here as far as the expedited nature of this goes, up to and  
22 including July 15. And that's it as of right now.

23           Now, you think you can get somebody in there next  
24 week?

25           MS. DEDINAS: Yes.

1           THE COURT: So do you want to set a status the  
2 following week?

3           MS. DEDINAS: Yes.

4           MR. BORLACK: That's discovery, expedited discovery  
5 closeoff date, Judge?

6           THE COURT: Yes -- no, that's the general discovery  
7 closeoff date. The expedited discovery cutoff, according to  
8 what you recommended here, was March 5 for United Central and  
9 March 16 for defendants. So that's a difference there.

10          MS. DEDINAS: Your Honor --

11          THE COURT: You have it right in your own documents  
12 that you submitted.

13          MS. DEDINAS: Your Honor --

14          THE COURT: Yes.

15          MS. DEDINAS: -- we asked for seven days for them to  
16 respond to our requests. First of all, we served them early  
17 this week. But I should also indicate that we gave them the  
18 courtesy of draft expedited discovery even a week prior to that  
19 just so they could know what was coming.

20                So I don't think the seven days we're asking for is  
21 unreasonable.

22          MR. BORLACK: I will get my objections on file, Judge.

23          THE COURT: Okay. And do you have a date?

24          THE CLERK: Status hearing February 3.

25          THE COURT: Are these casual clothes? Is that what it

1 is?

2 MS. DEDINAS: It's my understanding that they are  
3 clothes that were intended for stores like Kohl's, Sears. And  
4 they are not being sold to those now. They're being  
5 liquidated.

6 THE COURT: Are they clothes for law students?

7 MS. DEDINAS: I'm sure they would be welcome to take a  
8 look.

9 THE COURT: Okay. Thank you very much.

10 MR. BORLACK: Thank you, Judge. 9:00 o'clock?

11 THE COURT: Yes. Oh, I'm glad you said that. When  
12 you come back, we are going to be across the hall. So it will  
13 be the south bank of elevators directly east. All right?

14 MR. BORLACK: I'm sure we'll find you, Judge.

15 THE COURT: We are moving. Well, you'd be surprised.

16 MS. DEDINAS: Thank you.

17 (Which were all the proceedings had at the hearing of the  
18 within cause on the day and date hereof.)

19 CERTIFICATE

20 I HEREBY CERTIFY that the foregoing is a true, correct  
21 and complete transcript of the proceedings had at the hearing  
of the aforementioned cause on the day and date hereof.

22 /s/Alexandra Roth

10/6/2010

23 \_\_\_\_\_  
Official Court Reporter  
24 U.S. District Court  
Northern District of Illinois  
25 Eastern Division

\_\_\_\_\_  
Date